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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,393	03/15/2004	John B. Gcagan III	3892P006D	1679

8791 7590 09/17/2007
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EXAMINER

JAIN, RAJ K

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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09/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,393

Applicant(s)

GEAGAN ET AL.

Examiner

Raj K. Jain

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/18/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 10-13, 16, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Fry et al (USP 6,810,409 B1).

Regarding claims 1-4, 10, 19 and 20, Fry discloses a method, comprising seaming together two or more data streams (col 1 lines 36-60), each made up of a number of packets (audio, video data comprises of packets), received from a content source across 10 (Fig. 1) one or more computer networks using an unreliable media transmission protocol at a proxy 20 disposed between the content source 10 and one or more content consumers 30 so as to provide one or more output data streams to the one or more content consumers 30 that include fewer missing packets than any individual one of the data streams being received at the proxy from the content source (col 3 lines 14-50, Fig. 1).

Regarding claim 11, Fry discloses the downloads occur over multiple connections between the content source and a proxy disposed between the content

Art Unit: 2616

source and one or more content consumers (Fig. 1, downloading occurs from the server or proxy servers col 2 lines 35-54).

Regarding claim 12, Fry discloses the proxy seams together data streams received from the content source across the multiple connections before storing a resultant seamed stream to a computer readable medium (fig. 1).

Regarding claim 13, Fry discloses the the proxy constructs the seamed stream by filling in information gaps in any of the data streams received from the content source with content derived from others of the data streams received from the content source (col 8 lines 27-46).

Regarding claim 16, Fry discloses at least one of the occasions corresponds to a time other than during or due to a user request for the streaming content (claim 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fry et al (USP 6,810,409 B1) as applied to claims 1, 10 above, and further in view of Lindqvist et al (USP 5,805,569).

Fry fails to disclose normalizing packet sequence numbers within a congestion network.

Lindqvist discloses normalizing packet sequence numbers within a congestion network (col 1 line 35 – col 2 line 65). Packet switching networks employing packet sequence numbers avoid excessive congestion by reducing the number of lost packets requiring retransmission as only those packets that are lost based on the sequence number not received will require retransmission and therefore eliminating to have to retransmit an entire sequence of packets. Thus it would have been obvious at the time the invention was made to incorporate the teachings of Lindqvist within Fry so as to enhance network performance by reducing network congestion by having packets with proper sequence numbers as appropriate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 2616

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raj K. Jain

/Raj K. Jain/

Art Unit 2616

September 12, 2007